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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
Policies and Rules)
Concerning Toll Fraud)

CC Docket No. 93-292

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF BELL ATLANTIC

SUMMARY

93-292

In spite of the efforts of interexchange carriers, exchange carriers, cellular service providers, payphone companies and PBX users, the volume of toll fraud continues to increase. Every time a service provider plugs one hole in the defense, a new one is opened. There is no particular reason to believe that this will change in the future, unless the rules are modified, and all members of the industry work together.

In fact, new personal communications services will present new opportunities for dishonest entrepreneurs to steal long distance services. As calls transit the facilities of more providers and bounce around the country in search of mobile subscribers, there will be more places to obtain access to the public network for illegal purposes. Without industry-wide planning and cooperation, the fraud opportunities offered by cellular and remote access to PBXs will seem small compared to PCS-related toll fraud.

The Commission can do a variety of things to help in the control of toll fraud. The Commission should support federal legislation that makes toll fraud a crime -- to clearly make it illegal to obtain telecommunications services with the intent not

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to pay for them -- and makes it illegal to manufacture devices that facilitate toll fraud. It should also permit the courts to order restitution to all service providers of the value of their services and all their costs.

The Commission should also work with law enforcement authorities and educate the public on how to protect itself against fraudulent activities. A Federal Advisory Committee could add representation of interests not part of the existing telecommunications industry fraud-control bodies.

But such actions by the Commission are not the most important contribution it can make to this effort. Rather, Bell Atlantic¹ believes that the Commission must establish a regulatory framework that replaces the current adversarial process and encourages members of different segments of the industry to work together to minimize fraud.

Under today's rules, when the inevitable fraud occurs, each of the service providers involved blames the others. Some can wash their hands of the situation under tariff limitation of liability provisions. Others simply refuse to pay and force the defrauded provider into long and costly litigation. Ultimately, at the end of today's process, everybody bears a share of the losses. But the "system" for sharing the risk is unnecessarily

¹ These comments are submitted on behalf of the Bell Atlantic telephone companies (of New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia) and Bell Atlantic Mobile Systems.

expensive and time consuming and engenders an adversarial rather than a cooperative relationship among providers.

The Commission Should Adopt a Rule Requiring All Service Providers To Share the Costs of Toll Fraud.

The Commission should adopt rules that provide that if all service providers who are in a position to control a certain type of fraud use the fraud-control features available to them, then all would bear a share of the cost of the fraud when it occurs. Under these circumstances, no one would be held harmless.²

No provider would receive a windfall, and none would be left to suffer the total loss. The exchange carrier could not expect to receive its full access charges for fraudulent calls that it might have prevented.³ Similarly, the interexchange carrier would not be paid its retail rate for such calls; instead, it would be able to recover from the other service providers some portion of the cost imposed by those calls. Payphone providers would also have to bear a share of the fraud costs, but they would not be liable, as many have been found to be, for the full retail rates for calls fraudulently placed

² Exchange carrier tariff limitation of liability provisions have been, and would continue to be, perfectly reasonable, particularly where the revenues that the carrier receives are very small compared to the total value of the fraudulently placed calls.

³ Under this principle, an exchange carrier would share the costs of fraud using its calling card, subscription fraud and certain types of private payphone fraud (those types that the exchange carrier has some capability to control). It would not share the costs of PBX toll fraud, clip-on fraud and other types of fraud that the carrier cannot have any control over.

through their equipment. Sharing the costs of fraud is, to some extent, the model followed in the cellular industry.

Under this proposal, when a customer bought fraud-control services from a carrier (such as, exchange carrier international blocking, screening and calling card validation), that customer would also be buying some measure of "fraud insurance." The rates for these fraud-control services would need to be adjusted to include an "fraud insurance premium" -- to recognize the additional fraud cost the provider would have to bear and the added benefit that the customer would receive.

This rule will provide several benefits. First, it will create a real economic incentive for all providers to use the fraud-control services offered by others. If they do, then they can be confident that they will not be left holding the bag and that everyone will have to contribute.

Such an incentive appears to be necessary, as many providers are not taking even the most elementary steps to protect themselves.

Bell Atlantic began offering private payphone providers international call blocking services in 1990 and tariffed the service at the federal level a year ago. As of last May, fewer than 40 percent of the private payphones in Bell Atlantic territory used this service;⁴ that figure is only a few percent higher today.

Bell Atlantic offers its Line Number Toll Screening database which allows interexchange carriers to identify any call origination

⁴ Bell Atlantic's Reply Comments on Further Notice of Proposed Rulemaking at 1-2 (June 9, 1993).

restrictions on the line from which a call is being made. Few interexchange carriers use it.

Second, a "no-fault" cost-sharing mechanism would be simple and relatively inexpensive to administer.⁵

Third, it would allow all members of the industry to focus their attention on reducing fraud rather than bickering with each other over who should be responsible for individual instances of fraud.

Bell Atlantic is not in a position to propose formulae for apportioning the costs of different types of fraud, in part because it does not have data about the extent of different types of toll fraud losses or the fraud control activities of other members of the industry. This idea includes as an essential element giving exchange carriers the ability to recover their newly assumed liability for the costs of fraud from the users of their fraud-control services. If the data indicate that such recovery would not be possible, then this fraud-sharing idea would not be workable.

Responses to Specific Issues Raised in the Notice.

The Commission's Notice asks for comment on a number of specific questions:

Existing fraud-control activities. The Bell Atlantic telephone companies have actively implemented increased fraud-

⁵ Bell Atlantic does not support the Florida PSC proposal because it would apportion responsibility according to relative degrees of fault. Notice ¶ 31. While some members of the Bar may look with favor on the creation of new fact-intensive claims to litigate, the creation of more disputes cannot be in the industry's, or the public's, interest.

control programs in recent months, while continuing to offer customers a variety of screening, blocking and toll restriction capabilities.

Bell Atlantic has established an around-the-clock fraud prevention center staffed by more than sixty employees.

It has implemented new operating procedures with the interexchange carriers, both to receive and immediately investigate fraud alerts from them and to provide them with information to conduct their own fraud investigations.

It has imposed new controls to help prevent subscription fraud.

Bell Atlantic has also begun a series of customer education efforts. For example, it will include a brochure on toll fraud in the package it sends to all new customers. The materials it sends to new calling cardholders will contain a section on fraud prevention tips.

Payphone fraud. As the Commission is aware, there are many things that private payphone providers can do -- both in their own equipment and in services they can obtain from exchange carriers -- to help them control fraud from their stations. These capabilities work and can be effective at thwarting attempted fraud. Most payphone providers do not use all the capabilities available to them, however, and many interexchange carriers do not use the information Bell Atlantic makes available to them that could help them control payphone fraud. The fraud-cost-sharing rules described above would give them added reasons to use these capabilities.

Calling card fraud. Exchange carrier Line Information Databases are the primary collection points of information for detecting and controlling calling card fraud. However, LIDB systems cannot stop calling card fraud all by themselves.

As described below, these systems cannot be effective unless other carriers use them. In addition, it is the interexchange carrier rather than the card issuer that is in the best position to detect certain types of fraudulent calling card calls. Bell Atlantic could also offer added fraud-control capabilities if interexchange carriers would provide Bell Atlantic with additional information as part of the LIDB inquiry.

The primary way that Bell Atlantic detects the fraudulent use of a calling card call is by keeping track of how often a card is used. High usage in a short period of time may suggest that the card number has been compromised and is being used fraudulently. Bell Atlantic believes that many interexchange carriers do not send validation inquiries to its LIDB every time a card is used in order to avoid paying Bell Atlantic the LIDB inquiry charge. This practice frustrates that fraud-control protections built into the LIDB systems.

LIDB systems cannot detect all fraudulent uses of calling cards. For example, some such calls last for hours. Only the carrier handling the call can spot -- and stop -- them.

One sign that a card number has been compromised is if it being used to place calls from several different, distant, locations. Another is that a card is being used to charge

multiple calls at the same time. Again, the interexchange carrier handling the calls is in the best position to detect these signs of fraud.

Bell Atlantic could do even more to control calling card fraud if interexchange carriers would provide Bell Atlantic with more information. For example, the inquiry that a carrier sends to a LIDB should include both the telephone number from which the call is being made and the number being called. Bell Atlantic can use this information to investigate instances of suspected fraud. Most interexchange carriers do not send this information, however. In a recent study, Bell Atlantic found that the worst of the major carriers never sent either number, while the best sent one of the numbers less than 40 percent of the time. Any rules the Commission adopts in this proceeding should include the requirement that all carriers send this information on all LIDB inquiries.⁶

In addition, last summer, Bell Atlantic announced its plan to offer its customers a domestic-only calling card, one that could be used to place domestic calls, but not international calls. If widely accepted, such a card could significantly reduce calling card fraud. In fact, sixty percent of the Bell Atlantic calling card fraud on the network of one major

⁶ Interexchange carriers should also give Bell Atlantic information about calls of long duration while the call is in progress. This would permit Bell Atlantic to investigate with the cardholder whether the call was authorized and to disable the card in LIDB if Bell Atlantic found that the number had been compromised.

interexchange carrier was for international calls. All interexchange carriers would have to send the called number as part of the LIDB inquiry to enable Bell Atlantic to offer a domestic-only card. Because only a few carriers have agreed to do so, Bell Atlantic has had to postpone introducing this fraud-control feature.

Subscription fraud. One of the fastest growing types of toll fraud is subscription fraud. This occurs when a customer orders local service from an exchange carrier, presubscribes to an interexchange carrier, runs up large toll charges and vanishes before the first bill is due. This type of fraud often involves the customer's allowing numerous friends and acquaintances to use the phone to place calls. This is sometimes a 24-a-day operation, in which the customer charges each user a fee to make call on his phone.

Bell Atlantic is doing a variety of things to control this type of fraud. Before opening a new customer account, Bell Atlantic now insists on receiving multiple pieces of verifiable personal information about the customer. Bell Atlantic has trained its installation personnel to spot signs of possible subscription fraud activity.

In addition, SS7 technology might give Bell Atlantic a way to detect the calling patterns associated with subscription fraud much earlier than is now the case. Bell Atlantic has developed an SS7 network monitoring system to increase network reliability -- it can analyze the messages transiting its SS7

network in order to detect potential network or equipment troubles. Bell Atlantic is currently testing this system in its own network.

This system could also have the capability to capture and analyze calling pattern information. For example, it would be possible to program it to alert Bell Atlantic fraud investigators if there are more than a certain number of international calls from a single line. Such a system could easily reduce this type of fraud to a significant extent.

Cellular fraud. The Commission should give the cellular industry new tools to combat fraud. As the Commission knows, the industry is experiencing huge losses from intentional theft of cellular service by organized conspiracies. Bell Atlantic Mobile suffered a fraud loss of over \$1 million in December 1993, and the figure is increasing monthly. This fraud is accomplished by such means as duplicating or tampering with cellular phone serial numbers, obtaining service under false pretenses, stealing cellular phones and by use of machines such as Electronic Serial Number/Mobile Identification Number ("ESN/MIN") readers.⁷

Cellular carriers have worked cooperatively and with other carriers to combat fraud.⁸ But with the growth and

⁷ These types of fraud are variously known as "cloning," "tumbling," "access fraud," "usage fraud" or "subscription fraud."

⁸ These initiatives include IS-41 deployment, positive pre-call validation, transmission of special ANI II information to interexchange carriers and inter-carrier agreements regarding allocation of charges for fraudulent usage.

increasing sophistication of the cellular fraud cartels, the industry needs more enforcement tools and more federal government backing.

The Commission's first priority should be to work for the enactment of federal legislation that clearly makes cellular fraud illegal. The law should prohibit theft of services by any means, including using the sophisticated electronic equipment that is common in existing fraud rings.

Second, the Commission should amend its rules to prohibit these types of fraud and permit the Commission to take action against the fraud rings short of criminal prosecution.⁹ In particular, the Commission should immediately adopt proposed Section 22.929 of the Part 22 rewrite (dealing with tampering of serial numbers), whether or not the rest of the revisions to Part 22 are complete.

Third, the Commission should include technical rules regarding the manufacture and sale of ESN/MIN readers. These readers are necessary tools for cellular businesses to program and repair cellular equipment, but in the hands of criminals they are the electronic equivalent of an assault weapon.

Therefore, readers regulated under Part 15 of Commission rules should require users to signal with the telephone number in order to access serial number information from a cellular phone. This would make it more difficult for

⁹ Bell Atlantic supports the notion of Commission forfeiture proceedings against non-licensees and non-applicants, as proposed in the Notice (at 20 n.54).

these devices to access random, legitimate ESN/MIN combinations from cellular phones. Sale and operation of these devices as to readers not regulated under Part 15 should be explicitly limited to cellular licensees or their designees.

Conclusion

While it may be impossible to eliminate toll fraud, the telecommunications industry should be able to take significant steps towards controlling it. The Commission should encourage all providers to use the fraud prevention tools available to them, in part by adopting rules that require all providers to share in the costs imposed by toll fraud when each of them has used the available fraud prevention measures. It should also prohibit actions by one company that hamper the fraud control efforts of others.

Respectfully submitted,



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